

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 15:020. Abandoned vehicles~~[Definitions]~~.

RELATES TO: KRS 189.450, ~~189.751~~, 189.752, 189.753

STATUTORY AUTHORITY: KRS 189.753(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.753(3) ~~requires~~directs the department ~~[of State Police]~~ to locate abandoned vehicles, order their removal from the rights-of-way of state highways, and notify the owners of vehicles. This administrative regulation is adopted to ~~establish~~define the procedures for location, removal, notification of owners and sale of abandoned vehicles.

Section 1. Definitions. (1) "Department" is ~~[The department shall locate, order removal of, and send notification to the owner of vehicles which are abandoned on the rights-of-way of state highways. This administrative regulation will not affect vehicles abandoned on toll roads, interstate highways or other fully controlled access highways as]~~ defined in KRS 16.010(8)~~[603 KAR 5:025]~~.

~~(2)~~[

~~Section 2. Definitions.~~ (1) "Presumed abandoned" means ~~[it has been determined that]~~ a vehicle that has been left upon the right-of-way ~~[rights-of-way]~~ of a state highway, county road, or city street for a period of three (3) ~~[fifteen (15)]~~ consecutive days.

~~(3)~~(2) "Rights-of-way" means in addition to the actual width of a state highway and the area between any separated highway, those areas lying outside the shoulders and ditch lines and within any landmarks such as fences, fence posts, cornerstones or other similar monuments indicating the boundary line.

Section 2. The department shall locate, order removal of, and send notification to the owner of vehicles which are abandoned on the rights-of-way of state highways, county roads, or city streets. This regulation will not affect vehicles abandoned on toll roads, interstate highways, or other fully controlled access highways as defined in 603 KAR 5:025.

Section 3. Location of Abandoned Vehicles. The department, upon a determination that ~~[When the Department of State Police observes]~~ a vehicle ~~[that]~~ is presumed ~~[apparently]~~ abandoned on a state highway, county road or city street shall affix a stalled vehicle check form ~~[shall be affixed]~~ to the vehicle noting the date and location. ~~[Notwithstanding the provisions of KRS 189.450, the vehicle shall be presumed abandoned if it remains at the location for fifteen (15) consecutive days.]~~

Section 4. Removal and Storage of Abandoned Vehicles. (1) If ~~[When]~~ a vehicle is presumed abandoned, the department ~~[Department of State Police]~~ may order any person engaged in the business of storing or towing motor vehicles to remove the abandoned vehicle to a site chosen by the ~~[such]~~ person.

(2) As soon as practicable, the department ~~[Department of State Police]~~ shall, if possible, notify the owner by certified mail that the vehicle was illegally upon public property; the present location of the vehicle; that retrieval will require payment of towing and storage charges; and that the vehicle may be sold if not claimed within sixty (60) days.

- (3) No notification shall be required if ownership cannot be determined.
- (4) Notice by the department [~~Department of State Police~~] shall constitute substantial compliance of the notice requirement by the towing and storing business.

Section 5. Sale of Abandoned Vehicles. (1) If after a period of sixty (60) days the reasonable charges for towing and storing the vehicle have not been paid, the vehicle may be sold by the owner of the towing or storing facility to pay the charges.

(2) Prior to setting any date for sale, the towing or storage facility shall contact the state police and determine if the vehicle is part of an ongoing investigation that [~~which~~] would preclude sale, and to inform the state police of any anticipated date of sale.

(3) Ten (10) days prior to the sale, the towing or storing facility shall send a certified letter to the owner stating the time and place of the sale.

(4) If the owner fails to respond to this second notice or make provisions to pay the towing and storage charges, the vehicle may be sold pursuant to KRS 376.275.

(5) In the event of such sale, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(6) The towing or storage facility selling any vehicle shall by affidavit inform the department [~~Department of State Police~~] of the towing and storage charges, the proceeds of the sale, and transmit any excess funds which shall be deposited in the state police agency fund account.

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 2:00 p.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This establishes procedures for location, removal, notification of owners and sale of abandoned vehicles.

(b) The necessity of this administrative regulation: This regulation is necessary to provide guidance for location, removal, notification of owners and sale of abandoned vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by providing guidance to the promulgated regulations implementing KRS 189.753.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists in the administration of the statutes by removing ambiguity from the regulations found within this Chapter.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment updates the procedures to reflect current practices by the department.

(b) The necessity of the amendment to this administrative regulation: The amendment updates the procedures to reflect current practices by the department.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statute by providing guidance to the promulgated regulations implementing KRS 189.753.

(d) How the amendment will assist in the effective administration of the statutes: The amendment updates the procedures to reflect current practices by the department.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of State Police; persons operating vehicles on the highways as prescribed in KRS 189.635; certified peace officers throughout the state; and the approximately 400 law enforcement agencies in the state.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No new actions must be taken on behalf of the regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: The amendment provides additional guidance to the regulated entities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Nothing.

(b) On a continuing basis: Nothing.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This amendment is not anticipated to increase implementation or enforcement costs for the Council or for any regulated entity. Generally, the Council is funded through appropriations from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment of this regulation does not establish any new fees or increase any current fees, directly or indirectly.

(9) TIERING: Is tiering applied? No. Tiering was not applied because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of State Police; persons operating vehicles on the highways as prescribed in KRS 189.635; certified peace officers throughout the state; and the approximately 400 law enforcement agencies in the state.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 189.635

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.